

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Proposed Tariffs)
Filed by Hawaiian Electric)
Company, Inc., Hawaii Electric)
Light Company, Inc., and Maui)
Electric Company, Limited,)
Governing Distributed Generation)
and Other Related Matters.)
_____)

DOCKET NO. 2006-0497

ORDER NO. 23373

Filed April 19, 2007
At 12 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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ORDER

By this Order, the commission grants the timely motions to intervene of: (1) Hawaii Renewable Energy Alliance ("HREA");¹ (2) Chapeau, Inc., dba BluePoint Energy, Starwood Hotels and Resorts Worldwide, Inc. ("Starwood Resorts"), and the Hawaii Health Systems Corporation ("HHSC") (collectively, the "BluePoint Energy Movants");² and (3) JW Marriott Ihilani Resort & Spa, Waikoloa Marriott Beach Resort & Spa, Maui Ocean Club, and Wailea Marriott (collectively, the "Marriott Movants").³

¹Motion to Intervene of HREA; and Certificate of Service, filed on March 2, 2007 (collectively, "HREA's Motion").

²BluePoint Energy, Starwood Resorts, and HHSC's Joint Motion to Intervene; and Certificate of Service, filed on March 12, 2007.

³Motion to Intervene of the Marriott Movants; and Certificate of Service, filed on March 12, 2007 (collectively, "Marriott's Motion").

The commission, on its own motion, also names the Kahala Senior Living Community, Inc. ("Kahala SLC")⁴ and the United States Combined Heat and Power Association ("USCHPA") as intervenors in this proceeding.⁵

HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, the "HECO Companies") shall hold one or more technical meetings with the parties, with the first meeting beginning no later than May 18, 2007. By June 22, 2007, the parties shall submit a stipulation identifying the agreed-upon remaining issues, procedural steps, and schedule for this proceeding, for the commission's review and approval. If the parties are unable to agree on a stipulation, each party shall submit its own proposal that identifies the remaining issues, procedural steps, and schedule for this proceeding, by June 22, 2007.

⁴As explained in this Order, the commission's action of sua sponte naming Kahala SLC an intervenor renders moot its motion to participate. See Motion to Participate of Kahala Senior Living Community, Inc.; and Certificate of Service, filed on March 12, 2007 ("Kahala SLC's Motion").

⁵As explained in this Order, the commission dismisses as untimely USCHPA's motion to participate, see USCHPA's Motion to Participate; and Certificate of Service, filed on March 19, 2007 ("USCHPA's Motion"), but sua sponte names USCHPA an intervenor to this proceeding.

I.

Background

A.

Procedural Background

On December 28, 2006, the commission opened this investigative docket to review and address: (1) the proposed tariffs (standby service and interconnection) filed by the HECO Companies; and (2) Sections 111(d)(15) and 112(b)(5) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005, governing interconnection standards.⁶ The commission named HECO, HELCO, MECO, and the Department of Commerce and Consumer Affairs,

⁶Order No. 23171, filed on December 28, 2006. Docket No. 2006-497 arises out of the commission's distributed generation investigative proceeding in In re Public Util. Comm'n, Docket No. 03-0371; specifically, the commission's directive that the electric utilities file proposed interconnection and standby service tariffs for the commission's review and approval.

HECO, HELCO, and MECO currently have in effect interconnection tariffs for distributed generation facilities operating in parallel with the utility's electric system. See In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Docket No. 02-0051.

HELCO presently has a Standby Rider A. See Decision and Order No. 22248, at 41 - 42 n.64. For the HECO Companies: (1) HECO proposes a standby service tariff; (2) HELCO proposes to revise its existing standby service tariff (from Rider A to Schedule SS); and (3) MECO proposes separate standby service tariffs for its Lanai, Maui, and Molokai divisions.

HECO's proposed standby service tariff is based on its cost of service study in In re Hawaiian Elec. Co., Inc., Docket No. 04-0113, HECO's pending 2005 test year rate case. HELCO's proposed standby service tariff is based on its cost of service study in In re Hawaii Elec. Light Co., Inc., Docket No. 05-0315, HELCO's pending 2006 test year rate case. MECO's proposed standby service tariffs are based on its cost of service study in In re Maui Elec. Co., Inc., Docket No. 97-0346, MECO's completed 1999 test year rate case.

Division of Consumer Advocacy ("Consumer Advocate"), as parties, and invited interested persons to timely move to intervene or participate in this proceeding.

By Order No. 23171, the commission also identified three preliminary issues,⁷ and required that any motion to intervene or participate specifically identify the issue or issues on which the person seeks intervenor or participant status. As part of its investigation, the commission also held public hearings on February 13, 2007 (Honolulu, Oahu), February 14, 2007 (Hilo, Hawaii), February 15, 2007 (Kona, Hawaii), February 28, 2007 (Kahului, Maui), March 1, 2007 (Kaunakakai, Molokai), and March 2, 2007 (Lanai City, Lanai), to

⁷Specifically:

1. Whether the HECO Companies' proposed standby service tariffs are just and reasonable and consistent in principle with the guidelines and requirements set forth in Decision and Order No. 22248, filed in Docket No. 03-0371, as clarified by Order No. 22375, filed in the same docket.
2. Whether the HECO Companies' proposed revisions to their existing interconnection tariffs are just and reasonable and consistent in principle with the guidelines and requirements set forth in Decision and Order No. 22248, filed in Docket No. 03-0371, as clarified by Order No. 22375, filed in the same docket.
3. Whether the commission should adopt, modify, or decline to adopt in whole or in part, the PURPA interconnection standards, including the extent to which the HECO Companies have already met the PURPA interconnection standards.

Order No. 23171, at 9. "These are preliminary issues for consideration. During the development of the prehearing (or procedural) order for this proceeding, the parties (and intervenors or participants, if any) shall have the opportunity to restructure these preliminary issues, stipulate to eliminate them, or suggest other issues for resolution in this proceeding for the commission's review and consideration." Id.

provide interested persons with the opportunity to comment on the proposed tariffs.

Timely motions to intervene were filed by HREA (March 2, 2007), the BluePoint Energy Movants (March 12, 2007), and the Marriott Movants (March 12, 2007), and a timely motion to participate was filed by Kahala SLC (March 12, 2007).⁸ The HECO Companies filed responses to these timely motions on March 9 and 19, 2007, respectively.⁹ On March 19, 2007, USCHPA filed an untimely motion to participate.¹⁰ On March 27, 2007: (1) the HECO Companies filed a response to USCHPA's motion to participate;¹¹ and (2) Kahala SLC requested leave from the commission to file a memorandum in support of its participation or intervention, in reply to the HECO Companies' Response.¹² On March 30, 2007, the HECO Companies submitted a letter proposing certain procedural steps as part of the commission's

⁸See footnotes 1 - 4, above.

⁹See HECO Companies' letter, dated March 9, 2007, in response to HREA's Motion; and HECO Companies' Response to the BluePoint Energy Movants' Motion, Starwood Resorts' Motion, and Kahala SLC's Motion; and Certificate of Service, filed on March 19, 2007 (collectively, "Response").

¹⁰See footnote 5, above.

¹¹HECO Companies' Response to USCHPA's Motion to Participate; Affidavit of William A. Bonnet; and Certificate of Service, filed on March 27, 2007.

¹²Kahala SLC's Request for Leave to File Memorandum in Support of Participation, or in the Alternative, Intervention; Memorandum in Support of Participation, or in the Alternative, Intervention; and Certificate of Service, filed on March 27, 2007, as amended on April 9, 2007 (collectively, "Kahala SLC's Reply"). Kahala SLC's memorandum in support of its participation or intervention, i.e., its Reply, is attached to its request for leave.

forthcoming order addressing the pending motions to intervene or participate.¹³ On April 9, 2007, Kahala SLC filed its response and partial opposition to the HECO Companies' letter.¹⁴

B.

HREA's Motion

HREA is a Hawaii-based, private, non-profit corporation, exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986. It is composed of developers, manufacturers, distributors, scientists, engineers, and advocates of renewable energy.

HREA notes its status as past and present intervenors in an array of energy-related commission dockets, including Docket No. 03-0371, and that it is a current member of the Advisory Groups for HECO and MECO's integrated resource planning process. HREA asserts that it has a substantial and continuing interest in the subject of renewable energy in the electric utility sector, and with respect to this proceeding, its interests extend directly to the implementation of appropriate interconnection requirements and standby service tariffs for all forms of distributed generation, including renewable and combined heat and power systems.

¹³HECO Companies' letter, dated March 30, 2007.

¹⁴Kahala SLC's Memorandum in Response and Partial Opposition; and Certificate of Service, filed on April 9, 2007.

C.

BluePoint Energy Movants' Motion

BluePoint Energy, Starwood Resorts, and HHSC seek to intervene as a unified team, with the common purpose of ensuring that any rates proposed by the HECO Companies for standby service and interconnection fees are fair, reasonable, and cost-based.

BluePoint Energy, a Utah corporation, is a vendor of combined cooling, heating and power ("CCHP") systems. In particular, BluePoint Energy designs, manufactures, markets, and maintains a series of CCHP products and services for industrial and other large users of electrical energy, enabling such users to generate a large portion of their electrical power needs on-premises. BluePoint Energy notes that it has installed CCHP equipment in the State, and is in the course of negotiating or contracting with other customers who intend to install BluePoint Energy's CCHP equipment in facilities in the State.

Starwood Resorts, a Maryland corporation, is a major operator of visitor and vacation ownership facilities located worldwide, including facilities located in the State. Specifically, Starwood Resorts owns, maintains, operates, or manages eleven hotels and resort properties on four of the Hawaiian islands, and is building additional properties in Hawaii.

Starwood Resorts has installed, and intends to install, CCHP systems in a number of its hotels and resorts worldwide, including Hawaii. Starwood Resorts and BluePoint Energy are presently under contract for four properties in Hawaii, and are

in negotiations to install CCHP equipment in several additional properties in Hawaii. Starwood Resorts notes that: (1) as a consumer of the HECO Companies' electric utility services, it will be severely and adversely impacted if the proposed standby rates were to take effect; and (2) the HECO Companies' proposed standby rates deter Starwood Resorts from going forward with its plans to install additional CCHP equipment.

HHSC owns, operates, and manages twelve community hospitals on five of the Hawaiian islands. HHSC states that it is the fifth largest employer in the State, the fourth largest community healthcare system in the United States, and is a large consumer of electric power throughout the State.

HHSC explains that: (1) it has CCHP facilities in place in three of its twelve Hawaii facilities, including two CHP facilities in the subject service areas; and (2) it plans to add CCHP equipment in some of its other hospitals, if feasible. HHSC notes that: (1) as a consumer of the HECO Companies' electric utility service, it will be severely and adversely impacted if the standby rates were to take effect, as proposed; and (2) the HECO Companies' proposed standby rates will frustrate HHSC's plans to install additional CHP equipment.

The BluePoint Energy Movants explain that BluePoint Energy took the initiative of joining with two large electric consumers with CCHP experience (Starwood Resorts and HHSC), and has formed a coalition of three entities to act as a single voice for the commission's benefit. They assert that "[t]he very pendency of this proceeding has effectively stopped

all consideration of installing additional CCHP systems until the consuming public - including Starwood [Resorts] and [HHSC] - know with certainty that any proposed rate and rule governing CCHP and other DG applications are, indeed, fair and reasonable."¹⁵ The BluePoint Energy Movants further assert that until fair and reasonable standby service rates are established, distributed generation will continue to suffer, leaving large electric consumers with no alternative energy choices.

The BluePoint Energy Movants state their commitment to:

- (1) working with any other designated intervenors to identify common positions that can be presented to the commission more clearly and concisely; and
- (2) providing the necessary resources to developing a sound record, including technical expertise and testimony.

Moreover, the BluePoint Movants indicate that:

- (1) the preliminary issues identified by the commission are adequate, and they have no interest in broadening the issues; and
- (2) they will continue to seek methods of presenting the best evidence in an economical and efficient manner, including the possibility of using the mediation process pursuant to HRS § 91-8.5, provided that it does not delay a final and fair resolution of the issues.

Lastly, the BluePoint Movants state their opposition to the HECO Companies' proposed tariffs, contending that: (1) the proposed rates contradict the State's energy policies and are in excess of standby and interconnection charges of comparable mainland utilities; and (2) the apparent deficiencies in the HECO Companies' filing include erroneous

¹⁵BluePoint Energy Movants' Joint Motion to Intervene, at 6.

assumptions, irrelevant costs, and the failure to quantify the benefits of CCHP to the five systems that comprise the HECO Companies' utility operations.

D.

Marriott Movants' Motion

The Marriott Movants consist of four major resorts in Hawaii: (1) JW Marriott Ihilani Resort & Spa on Oahu, a HECO customer; (2) Wailea Marriott on Maui, a MECO customer; (3) Maui Ocean Club on Maui, a MECO customer; and (4) Waikoloa Marriott Beach Resort & Spa on the island of Hawaii, a HELCO customer.

The Marriott Movants explain that they are actively reviewing whether to install cogeneration facilities at these resort facilities. At the same time, the standby service and interconnection tariffs proposed by the HECO Companies will directly impact their decision on whether to install CHP systems. Accordingly, the Marriott Movants contend that they have a direct and substantial interest in this proceeding that justifies their intervention herein, and that their participation will assist in developing a sound record and will neither broaden the issues nor delay the proceeding.¹⁶

The Marriott Movants state their opposition to the HECO Companies' proposed standby and interconnection tariffs, and

¹⁶In addition to the preliminary issues previously identified by the commission, the Marriott Movants identify twelve potential sub-issues they assert are directly related to the preliminary issues. See Marriott Movants' Motion to Intervene, at 10 - 11 (twelve sub-issues identified).

express their willingness to participate in discussions to determine whether any negotiated outcome is possible.

E.

Kahala SLC's Motion

Kahala SLC is the not-for-profit owner of Kahala Nui and Hiolani Care Center, which together serve approximately 500 senior residents. Kahala Nui is a new Continuing Care Retirement Community, comprised of 270 independent living apartments. The attached care center, Hiolani Care Center, is a skilled nursing and assisted living component of Kahala Nui that provides care for its residents and to the general public. Kahala SLC is a HECO customer.

In early 2003, Kahala SLC decided to install a CHP plant to heat Kahala Nui's domestic hot water, pool, and whirlpool, and to provide a portion of Kahala Nui's other electricity requirements. Kahala SLC states that while the CHP equipment has been tested and is in the process of being commissioned, recent cost analysis indicates that it will be uneconomical to operate the cogeneration system if HECO's proposed standby fees are implemented. Kahala SLC contends that "[m]aterially changing the ground rules for the cost of operating Kahala Senior Living's cogeneration plant after it has been installed would have a significant adverse effect on the operation of the plant as it would destroy the value of Kahala Senior Living's investment."¹⁷ Ultimately, Kahala SLC

¹⁷Kahala SLC's Motion, at 4.

represents that it "may choose not to operate its CHP plant, thereby losing not only the projected savings in energy costs, but the investment as well."¹⁸

Based on these reasons, Kahala SLC contends that it has a direct and substantial interest in this proceeding that justifies its participation herein,¹⁹ and that it opposes the HECO Companies' proposed standby and interconnection tariffs. Concomitantly, Kahala SLC seeks only participant status in this proceeding, due to the potential economic commitment and resources needed to fully participate as an intervenor.

Specifically, Kahala SLC seeks to participate by:

- (1) participating in any settlement negotiations and agreement;
- (2) reviewing the record and filing comments or legal arguments at the conclusion of any proceeding in this docket, whether litigated or negotiated; and
- (3) participating in any other tasks as directed by the commission.

F.

USCHPA's Motion

USCHPA is self-described as:

. . . the national association of companies, organizations, and individuals who recognize the benefits and seek to increase the use of combined heat and power ("CHP") and clean distributed generation ("DG") throughout the U.S. economy. Our membership includes 65 corporate members, representing manufacturers of equipment used for

¹⁸Kahala SLC's Motion, at 6.

¹⁹In addition to the preliminary issues identified by the commission, Kahala SLC identifies fourteen potential sub-issues it asserts are related to the preliminary issues. Kahala SLC's Motion, at 8 - 13 (fourteen sub-issues identified).

CHP, installers, users, consultants and engineering firms, as well as non-profit environmental and public-interest groups who recognize and seek the important efficiency, environmental, and reliability benefits offered by CHP and clean DG. In addition, we have 480 individuals on our membership rolls.

USCHPA's Motion, at 2.

USCHPA seeks to ensure that any rates proposed by the HECO Companies for standby service and interconnection fees are non-discriminatory, fair, reasonable, and cost-based, by demonstrating the need for a methodology that appropriately and accurately quantifies the costs of standby service to DG customers. USCHPA states that its "expertise comes from direct involvement or member involvement in various state PUC proceedings on rates and tariffs for [DG/CHP]."²⁰

USCHPA seeks to participate without intervention, and at this juncture, recommends that the preliminary issues include: (1) the evaluation and determination of an appropriate methodology to calculate standby rates; and (2) alternative methods to the provisioning of standby service by the interconnecting utility, including the provisioning of "standby service by the host customer through other onsite generation either on its property or adjoining property."²¹

²⁰USCHPA's Motion, at 3.

²¹USCHPA's Motion, at 5.

G.

HECO Companies' Responses

In general, the HECO Companies do not oppose the granting of intervenor status to HREA, the BluePoint Energy Movants, and the Marriott Movants, respectively, or to the granting of participant status to Kahala SLC and USCHPA, provided that they do not unduly delay the proceeding and unreasonably broaden the issues.

That said, the HECO Companies recommend that the movants, as intervenors and participants, be precluded from: (1) raising issues that are beyond the scope of the preliminary issues identified by the commission in Order No. 23171; (2) raising issues already resolved through Docket No. 03-0371; or (3) raising other issues that are currently being addressed in separate rate case proceedings, such as cost of service issues. Moreover, the HECO Companies contend that Kahala SLC should not be allowed to participate in any settlement negotiations, unless Kahala SLC "fully participates in all the required procedural steps that [are] required of all the other parties to this docket."²² The HECO Companies also "request that the Commission defer deciding on the sub-issues submitted by the [Marriott Movants] until such time as all the parties to this docket are finalized and all parties may participate in forming the sub-issues of this docket."²³

²²HECO Companies' Response, at 4; see also id. at 2.

²³HECO Companies' Response, at 5.

H.

Kahala SLC's Reply

Kahala SLC essentially seeks leave from the commission to respond to the HECO Companies' opposition to Kahala SLC's request to participate in any settlement negotiations as a participant. In this respect, Kahala SLC informs the commission that if the commission desires to have Kahala SLC participate as an intervenor, Kahala SLC expresses its willingness to accept intervenor status, and is prepared to participate as an intervenor to the extent its resources allow.

I.

HECO Companies' Letter

In their letter to the commission, the HECO Companies state that a consensus exists that the standby service and interconnection tariffs ultimately approved by the commission should be fair and reasonable, and encourage the development of distributed generation. Nonetheless, in lieu of instructing the parties to develop a procedural order at this time, the HECO Companies propose a technical meeting with the parties and participants to discuss certain matters that will serve as a basis for attempting to reach agreement on the issues from the onset of this proceeding, and ultimately avoid a lengthy proceeding on this matter.²⁴ In the HECO Companies' view,

²⁴As explained by the HECO Companies:

Accordingly, in lieu of developing the above mentioned procedural order at this time, the HECO Companies would like to propose for consideration a technical meeting with the

"[f]ollowing the conclusion of this settlement discussion process, the parties/participants [will] be in a better position to make informed decisions on the appropriate remaining issues, procedural steps and schedule necessary to conduct the proceeding, and ultimately avoid a lengthy proceeding on this matter."²⁵

Kahala SLC, in response, notes the apparent inconsistency in the HECO Companies inviting the parties and participants to participate in the proposed technical meeting, yet objecting to Kahala SLC's participation in any settlement discussions as a participant. Kahala SLC also proposes that the

parties/participants to the proceeding. The intent of the technical meeting is for the HECO Companies to more fully explain the rate design methodology employed in developing their proposed standby service and interconnection tariffs so that the parties/participants have a better understanding of the methodology as well as to allow the parties/participants to comment on the HECO Companies proposed tariffs, and to make presentations on alternative tariffs that they intend to sponsor in the proceeding. The parties/participants could also utilize this meeting to facilitate discussions and address issues such as the treatment of projects that are already underway or installed after this docket was open, and whether different islands should be treated differently because of the unique situations for each particular islands. Further, we hope that the technical meeting can serve as the basis for the parties/participants to attempt to reach agreement/partial agreement on the issues from the onset of the proceeding. The attainment of agreement/partial agreement on the issues would then serve to limit any remaining issues that need to be addressed by the parties/participants. Following the conclusion of this settlement discussion process, the parties/participants would be in a better position to make informed decisions on the appropriate remaining issues, procedural steps and schedule necessary to conduct the proceeding, and ultimately avoid a lengthy proceeding on this matter.

HECO Companies' letter, dated March 30, 2007, at 2.

²⁵HECO Companies' letter, dated March 30, 2007, at 2.

scope of the proposed technical meeting be limited to: (1) having the HECO Companies more fully explain the rate design methodology employed in developing their proposed tariffs; (2) developing the issues, procedures, and schedule; and (3) discussing whether the settlement of any of the issues at this juncture is possible.

II.

Discussion

HAR § 6-61-55, which governs intervention in a commission proceeding, states:

§6-61-55 Intervention. (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.

(b) The motion shall make reference to:

- (1) The nature of the applicant's statutory or other right to participate in the hearing;
- (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
- (3) The effect of the pending order as to the applicant's interest;
- (4) The other means available whereby the applicant's interest may be protected;
- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record;

- (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

(c) The motion shall be filed and served by the applicant in accordance with sections 6-61-21 and 6-61-57.

(d) Intervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented.

HAR § 6-61-55. Moreover, intervention "is not a matter of right but a matter resting within the sound discretion of the commission." In re Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975).

HAR § 6-61-56, which governs participation in a commission proceeding without intervention, states:

§6-61-56 Participation without intervention.

(a) The commission may permit participation without intervention. A person or entity in whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

(b) A person who has a limited interest in a proceeding may make an application to participate without intervention by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57.

- (c) The motion shall provide:
- (1) A clear and concise statement of the direct and substantial interest of the applicant;
 - (2) The applicant's position regarding the matter in controversy;
 - (3) The extent to which the participation will not broaden the issues or delay the proceeding;
 - (4) The extent to which the applicant's interest will not be represented by existing parties;
 - (5) A statement of the expertise, knowledge or experience the applicant possesses with regard to the matter in controversy;
 - (6) Whether the applicant can aid the commission by submitting an affirmative case; and
 - (7) A statement of the relief desired.

HAR § 6-61-56.

A.

Intervenors

1.

HREA, the BluePoint Energy Movants,
and the Marriott Movants

The HECO Companies affirmatively state their conditional non-objection to the granting of intervenor status to HREA, the BluePoint Energy Movants, and the Marriott Movants, while the Consumer Advocate does not affirmatively object to movants' participation as intervenors. In addition:

1. To-date, HREA has actively participated as an intervenor in Docket No. 03-0371, including the filing of

comments on the HECO Companies' proposed interconnection tariff,²⁶ and seeks to continue its participation in the commission's distributed generation investigation by way of this proceeding.

2. BluePoint Energy, Starwood Resorts, and HHSC, for efficiency purposes, seek to present a unified position in developing a sound record, while working with the other parties in identifying common positions and utilizing alternative processes such as mediation in reaching an amicable resolution. The BluePoint Energy Movants also represent that they have no interest in broadening the preliminary issues identified by the commission.

3. The Marriott Movants assert a direct and substantial interest in this proceeding, and represent that their participation will assist in developing a sound record and will neither broaden the issues nor delay the proceeding. In addition, the Marriott Movants express their willingness to participate in discussions to determine whether any negotiated outcome is possible.

The commission finds that the participation by HREA, the BluePoint Energy Movants, and the Marriott Movants in this proceeding can assist the commission in developing a sound record, and that the allegations raised by the movants in their respective motions appear reasonably pertinent to the preliminary issues identified by the commission, and will not unduly broaden the issues already presented. The commission, thus, grants

²⁶Docket No. 03-0371, HREA's comments, dated September 8, 2006.

intervention to HREA, the BluePoint Energy Movants, and the Marriott Movants.

2.

Kahala SLC

While Kahala SLC will appear to assist the commission in developing a sound record, and that the overall allegations identified in its Motion are reasonably pertinent to the preliminary issues identified by the commission, the commission notes that some of the potential sub-issues identified by Kahala SLC are beyond the scope of this proceeding,²⁷ and argumentative. Thus, in the commission's view, Kahala SLC unreasonably broadens the issues already presented.

Nonetheless, the HECO Companies affirmatively state their conditional non-objection to the granting of participant status to Kahala SLC, and the Consumer Advocate does not affirmatively object to Kahala SLC's participant status herein. That said, the HECO Companies object to Kahala SLC's participation in any settlement discussions. Kahala SLC, in response, expresses its willingness to participate as an intervenor, if so desired by the commission, in order to participate in any settlement discussions.

At this preliminary juncture, the HECO Companies, BluePoint Energy Movants, Marriott Movants, and Kahala SLC strike a conciliatory tone, suggesting that the commission give

²⁷For example, Kahala SLC's identification of possible sub-issues include: (1) recognizing cogeneration as a form of demand-side management that is eligible for rebates; and (2) revising HECO's net energy metering program.

them the opportunity to explore a possible consensus. Concomitantly, Kahala SLC, as a participant, seeks to await the conclusion of this proceeding before filing its comments or legal arguments, whether litigated or negotiated.

The commission disagrees with the proposed nature of Kahala SLC's participation. Instead, the commission notes that it is feasible, meaningful, and consistent with the public interest that any settlement, if any, on the merits of the issues identified in this proceeding, should include the Kahala SLC's input and consensus as an intervenor, and not merely as a participant.²⁸ Moreover, Kahala SLC does not object to being named as an intervenor, if designated as such by the commission.

Under the circumstances, the commission, on its own motion, names Kahala SLC as an intervenor in this proceeding. This action renders moot Kahala SLC's motion to participate. Kahala SLC is specifically cautioned that it shall refrain from unreasonably broadening the issues presented in this proceeding.

3.

USCHPA

With respect to USCHPA, the commission finds that its Motion is untimely. In particular, while the deadline to timely file any motions to intervene or participate expired on March 12,

²⁸In other words, in the event a settlement agreement on the merits is finalized and presented to the commission for approval, it is inconsistent with the public interest for Kahala SLC, at that time, to then object to or express concerns with the settlement agreement as a participant.

2007,²⁹ USCHPA filed its Motion on March 19, 2007. Moreover, USCHPA offers no excusable neglect for its belated filing, as required by HAR § 6-61-23(a)(2). Accordingly, the commission dismisses as untimely USCHPA's Motion.

That said, the commission notes that the HECO Companies affirmatively do not object to USCHPA's participation, subject to certain conditions. Moreover, USCHPA is prepared to offer the resources and expertise of its specific members to assist the commission in evaluating the HECO Companies "proposed rates and charges, the underlying costs used to justify the proposed rates and charges, and, importantly, demonstrating the need for a methodology that appropriately and accurately quantifies the costs of standby service to DG."³⁰ Accordingly, the commission, in this limited instance and on its own motion, will name USCHPA as an intervenor in this proceeding.³¹ In this respect, similar to Kahala SLC, the commission finds that any settlement, if any, on the merits of the issues identified in this proceeding should include USCHPA's input and consensus as an intervenor.

²⁹See Notice of Public Hearings, at 2.

³⁰USCHPA's Motion, at 3.

³¹Cf. In re Hawaiian Elec. Co., Inc., Docket No. 05-0069, Order No. 22029 (denying the movant's request for reconsideration or enlargement of time to file its untimely motion to participate or intervene, but nonetheless allowing the movant participant status based on the commission's own motion).

Conditions

The movants are expressly cautioned that their participation as intervenors in this docket will be limited to the issues raised in this proceeding. The commission will preclude any effort by the intervenors to unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider their participation in this docket if, at any time during the course of this proceeding, the commission determines that any of the intervenors are unreasonably broadening the pertinent issues raised or unduly delaying the proceeding.³²

B.

Procedures

The commission accepts as reasonable the HECO Companies' proposal to hold a technical meeting with the parties to discuss certain matters that will serve as a basis for attempting to reach agreement on the issues from the onset of this proceeding, and possible consensus on avoiding a lengthy proceeding herein. Thus, the commission: (1) instructs the HECO Companies to hold one or more technical meetings with the parties, with the first meeting beginning no later than May 18,

³²The commission, as a courtesy, served copies of Order No. 23171 and the Notice of Public Hearings to the parties and participant in Docket No. 03-0371, and to the interested persons that submitted written comments on the electric utilities' proposed tariffs filed in Docket No. 03-0371. Beginning with this Order, however, the commission's service list for this proceeding will only list the parties named to Docket No. 2006-0497.

2007;³³ and (2) by June 22, 2007, the parties shall submit a stipulation identifying the agreed-upon remaining issues, procedural steps, and schedule for this proceeding, for the commission's review and approval, while remaining cognizant that the deadline for commission action on the PURPA interconnection standards issue is on or about August 7, 2007.³⁴ Based on the time constraints imposed by federal law, the commission intends to prioritize the PURPA interconnection standards issue, and the parties shall do so likewise.

III.

Orders

THE COMMISSION ORDERS:

1. The motions to intervene of HREA, the BluePoint Energy Movants, and the Marriott Movants are granted, provided that their intervention shall not unreasonably broaden the issues, or unduly delay the proceeding, and they follow all applicable rules, orders, and other requirements imposed by the commission.

2. Kahala SLC's request for leave to reply to the HECO Companies' Response is granted, and its Reply is made a part of the docket record.

³³Out-of-state representatives, such as USCHPA, may participate by teleconference or other available medium.

³⁴Specifically, whether the commission should adopt, modify, or decline to adopt in whole or in part, the Institute of Electrical and Electronic Engineers' Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, including the extent to which the electric utilities have already met these standards. See 16 U.S.C. §§ 2621(d)(15) and 2622(b)(5).

3. Kahala SLC is sua sponte named as an intervenor, provided that its intervention shall not unreasonably broaden the issues, or unduly delay the proceeding, and Kahala SLC follows all applicable rules, orders, and other requirements. Such action renders moot Kahala SLC's motion to participate.

4. USCHPA's motion to participate is dismissed as untimely. Nonetheless, USCHPA is sua sponte named as an intervenor, provided that its intervention shall not unreasonably broaden the issues, or unduly delay the proceeding, and USCHPA follows all applicable rules, orders, and other requirements.

5. The HECO Companies shall hold one or more technical meetings with the parties, with the first meeting beginning no later than May 18, 2007.

6. By June 22, 2007, the parties shall submit a stipulation identifying the agreed-upon remaining issues, procedural steps, and schedule for this proceeding, for the commission's review and approval, while remaining cognizant that the deadline for commission action on the PURPA interconnection standards issue is on or about August 7, 2007. In this regard, the commission intends to prioritize the PURPA interconnection standards issue, and the parties shall do so likewise.

If the parties are unable to agree on a stipulation, each party shall submit its own proposal that identifies the remaining issues, procedural steps, and schedule for this proceeding, by June 22, 2007.

7. The commission will accept written comments submitted from the general public in this proceeding until April 30, 2007.

DONE at Honolulu, Hawaii APR 19 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

2006-0497.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23373 upon the following persons, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such person.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

WILLIAM A. BONNET
VICE PRESIDENT
HAWAIIAN ELECTRIC COMPANY, INC.
HAWAII ELECTRIC LIGHT COMPANY, INC.
MAUI ELECTRIC COMPANY, LTD.
P. O. Box 2750
Honolulu, HI 96840-0001

DEAN MATSUURA
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840-0001

THOMAS W. WILLIAMS, JR., ESQ.
PETER Y. KIKUTA, ESQ.
GOODSILL ANDERSON QUINN & STIFEL
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, HI 96813

Counsel for HECO, HELCO, MECO

WARREN S. BOLLMEIER II
PRESIDENT
HAWAII RENEWABLE ENERGY ALLIANCE
46-040 Konane Place, #3816
Kaneohe, HI 96744

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RENE MCWADE
HAWAII HEALTH SYSTEMS CORPORATION
3675 Kilauea Avenue
Honolulu, HI 96816

WILLIAM W. MILKS, ESQ.
LAW OFFICE OF WILLIAM W. MILKS
American Savings Bank Tower
Suite 977, 1001 Bishop Street
Honolulu, HI 96813

Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD
HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH
SYSTEMS CORPORATION

BEN DAVIDIAN, ESQ.
LAW OFFICES OF BEN DAVIDIAN
P. O. Box 2642
Fair Oaks, CA 95628

Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD
HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH
SYSTEMS CORPORATION

TYRONE CROCKWELL
AREA DIRECTOR OF ENGINEERING
JW MARRIOTT IHILANI RESORT & SPA
92-1001 Olani Street
Ko Olina, HI 96707

GREGG W. ROBERTSON
TREASURER
KAHALA SENIOR LIVING COMMUNITY, INC.
c/o ROBERTSON & COMPANY
Suite 2290, Pauahi Tower
1001 Bishop Street
Honolulu, HI 96813

THOMAS C. GORAK, ESQ.
GORAK & BAY, L.L.C.
1161 Ikena Circle
Honolulu, HI 96821

Counsel for JW MARRIOTT IHILANI RESORT & SPA; WAIKOLOA
MARRIOTT BEACH RESORT & SPA; MAUI OCEAN CLUB; and WAILEA
MARRIOTT; and for KAHALA SENIOR LIVING COMMUNITY, INC.

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ERIC WONG, ENERGY POLICY CHAIR
UNITED STATES COMBINED HEAT AND POWER ASSOCIATION
980 Ninth Street, Suite 2200
Sacramento, CA 95814



Karen Higashi

DATED: APR 19 2007